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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,698	03/01/2002	David H. Worledge	2218.002	4889

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08/01/2003

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EXAMINER

HARRIS, STEPHANIE N

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,698

Applicant(s)

WORLEDGE ET AL.

Examiner

Stephanie N. Harris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 12, 13, 17-19, 21-23, 25-33, 40-43, 45 and 46 is/are rejected.
- 7) ☒ Claim(s) 8, 10, 11, 14-16, 20, 24, 34-39 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 0
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2, 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 40 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 40 recites the limitation "barrel" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 41 recites the limitation "second tube" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 17-19, 21-23, 25-33, 40-43, 45, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoltz (USPN 5524968) in view of Sutherland (USPN 4784436).

Regarding claim 1, Stoltz discloses an adjustable chair that comprises a cage (10) as seen in Figure 3. A multiply positionable coupler (27) is removably connectable

to the cage (Col 2, lines 27-37). Three variable configurable legs (27) are mounted on the multiply positionable coupler. Each of the three variably configurable legs is movably fastened to the multiply positionable coupler at more than one location as seen in Figure 1.

Regarding claim 5, the multiply positionable coupler includes a support assembly formed with a first tube (23) having proximal end, a distal end, and a circumferential surface between the proximal end and distal end as seen in Figure 1.

Regarding claim 17, a support assembly, including a first tube (23), is pivotally connectable to the plurality of tines. A carriage device, with a plurality of legs pivotally attached, is slidably and rotationally positionable on the first tube of the support assembly as seen in Figure 1. Regarding claim 18, the support also includes an upper collar (20) that is slidably engaged with the first tube. Regarding claim 19, the support assembly includes means (13) that can be used to movably interconnect the support assembly to the cage as seen in Figures 1 and 2.

Regarding claim 21 the support assembly includes a first retaining ring (20) connected to an end of the first tube (23) that can prevent disengagement of the support assembly to the first tube. Regarding claim 22, the support assembly includes a second retaining ring (20) that is engageable with the first tube (23). Regarding claim 23, the support assembly includes a lower collar that is slidably engageable with the first tube (23). All elements refer to Figure 3.

Regarding claim 25, the support assembly includes means (17, 31) to movably connect the plurality of legs (27) to the support assembly. Regarding claim 26, the

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carriage device includes a second tube (located between elements 17 and 31) that is slidably engageable with the first tube. Regarding claim 27, the carriage device includes a fixed collar (located between elements 17 and 31) attached to one end of the second tube for movably connecting the plurality of legs (27). Regarding claim 28, the carriage device includes means (17, 31) for positioning the plurality of legs (27). All elements refer to Figure 3.

Regarding claim 31, the positioning mechanism includes an upper collar (22) that is slidably engageable with the first tube (23). Regarding claim 32, the positioning means includes a first retaining ring (located between elements 17 and 31) that abuts an end of the first tube. Regarding claim 3, the positioning means (17, 31) includes a plurality of arms that are pivotally connectable to the upper collar. Regarding claim 40, the positioning means includes a plurality of struts (17, 31) that are pivotally connectable to a barrel (23) and to the adjustable legs (27). Regarding claim 41, the positioning means includes a retaining ring (20) that is attached to a second end of the tube (23).

Stoltz shows all of the teachings of the claimed invention but fails to show the use of a ribbed cage and a support member. Sutherland discloses a ribbed cage (22, 40, 16) and a support member (50, 48) that is removably engagable with the ribbed cage as seen in Figures 1 and 2. Regarding claim 2, the ribbed cage includes a plurality of tines or ribs (22) having a leading end and a following end. Regarding claim 3, the

plurality of tines further comprises a removable swivelable boom (40) that is connectable to the following end of the tines as seen in Figure 2. Regarding claim 4, the support member includes a seat portion (50) and back portion (48) for supporting a person as seen in Figure 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the cage of Stoltz with the ribbed cage and engaging support member, as shown by Sutherland, in order to provide ease of disassembly for the occupant of the chair.

Regarding claims 42, 42, 45, and 46, Stoltz in view of Sutherland discloses all of the claimed structure of the instant invention. Stoltz in view of Sutherland lacks only the specifically recited method steps.

It would have been obvious, if not inherent, to one having ordinary skill in the pertinent art at the time of the invention to use the chair as disclosed by the combination of Stoltz in view of Sutherland by the claimed method steps. Such a modification provides a conventional and efficient method of using the device as disclosed by the combination of Stoltz in view of Sutherland.

Claims 6, 7, 9, 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoltz (USPN 5524968) in view of Sutherland (USPN 4784436) and in further view of Liao (USPN 5816556).

Stoltz in view of Sutherland has been described above. Stoltz in view of Sutherland shows all of the teachings of the claimed invention but fails to show the use of an upper and lower collar.

Regarding claim 6, an upper collar (24) is slidably engageable with a first tube (11) as seen in Figure 3. The upper collar has an upper surface, a lower surface, and an inside wall surface (52) therebetween as seen in Figure 6. A hole is formed in the approximate center of the wall and a plurality of slots (53, 53') is formed in the wall and extending radially toward the longitudinal axis through the center of the first tube as seen in Figure 6.

Regarding claim 7, a first retaining ring (20) abuts the proximal end of the first tube, and a second retaining ring (16) is engageable with the lower surface of the upper collar and with the circumferential surface of the first tube as seen in Figure 3.

Regarding claim 9, a lower collar (16) is slidably engageable with the first tube. The lower collar is formed with an exterior surface, an interior surface, a lower edge, an annular face, a cavity between the lower edge and interior surface, and an opening formed through the exterior surface, interior surface and cavity coincident with the longitudinal axis of the first tube as seen in Figure 3.

Regarding claim 12, the multiply positionable coupler includes a carriage device formed with a second tube (20) having an interior end, a posterior end, and an outer surface therebetween as seen in Figure 3. Regarding claim 13, further comprises a fixed collar (50) attached to the posterior end of the second tube. The fixed collar is formed with a forward surface, a rear surface, a body therebetween, a duct formed

through the approximate center of the body, and a plurality of slits formed in the body extending radially toward the longitudinal axis through the center of the second tube as seen in Figure 6.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tube of Stoltz in view of Sutherland with the an upper and lower collar, as shown by Liao, in order to provide a stopping means for the height adjustability of the chair.

Allowable Subject Matter

Claims 8, 10, 11, 14-16, 20, 24, and 34-39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 44 is allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to variably adjustable chairs: US006082813A to Chen, US005951101A to Chen, US005931530A to Liu, US006270156B1 to Metzger et al., US006536732B1 to Chang, US005842742A to Hoshino, U.S. Pat. No. 5722627 to Hoshino, U.S. Pat. No. 4872635 to Knoblock et al., U.S. Pat. No. 3572831 to Barecki, U.S. Pat. No. 4547015 to Wakimoto, U.S. Pat. No. 582136 to Comfort, U.S. Pat. No. 2010306 to Leech, U.S. Pat.

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No. 3123395 to Glass, U.S. Pat. No. 180610 to Lungren, and U.S. Pat. No. 3005659 to Sanders.

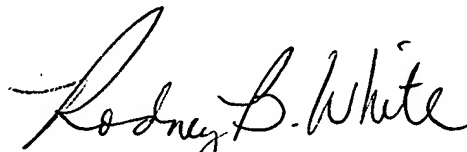
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie N. Harris whose telephone number is 703-305-1838. The examiner can normally be reached on Monday-Friday from 9am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

SNH

July 24, 2003


Rodney B. White
Patent Examiner